

# EXHIBIT 6

Page 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DOROTHY ANDERSON and  
DEMARQUION MERRILL, as  
Co-Personal Representative  
of the Estate of BOBBY  
MERRILL, deceased,

Plaintiffs,

Case No.: 13-11159

vs.

Hon. Thomas Ludington

OFFICER JEFF MADAJ, individually,  
OFFICER JUSTIN SEVERS, individually,  
OFFICER BRIAN GUEST, individually, and  
OFFICER STEVEN WIETECHA, individually,

Defendants.

/

The Deposition of OFFICER JEFFREY J. MADAJ,  
taken before David S. Ripka, CSR-2175 and Notary Public in and  
for the County of Genesee, acting in the County of Saginaw,  
State of Michigan, at the offices of Ripka, Boroski &  
Associates, One Tuscola Street, Suite 301, Saginaw, Michigan,  
on Wednesday, November 20, 2013, commencing at or about  
12:56 p.m.

APPEARANCES:

Fieger, Fieger, Kenney, Giroux, Danzig & Harrington, P.C.  
BY: ROSS A. BRUNETTI, ESQ. (P73080)  
19390 West 10 Mile Road  
Southfield, Michigan 48075  
(248) 355-9049

Appearing on behalf of Plaintiffs,

<p style="text-align: right;">Page 138</p> <p>1 initial this and put this in the correct position that I 2 recall it being in?</p> <p>3 Q Sure.</p> <p>4 MR. REISING: Well, you're not drawing this to 5 scale, I assume?</p> <p>6 THE WITNESS: No.</p> <p>7 MR. REISING: Okay.</p> <p>8 THE WITNESS: "P3".</p> <p>9 Q (BY MR. BRUNETTI) Okay. So it looks like, as you 10 approached, there were two other patrol cars on the South 11 Washington facing the same direction that you were 12 traveling, correct?</p> <p>13 A Yes.</p> <p>14 Q And you pulled your vehicle sort of to the left of theirs 15 to try to block Bobby Merrill in; is that correct?</p> <p>16 A To block his advance, that's correct.</p> <p>17 Q Right. Because he was heading east toward the direction 18 that you parked?</p> <p>19 A Correct.</p> <p>20 Q All right. At that point, what did you see as you 21 stopped your patrol vehicle?</p> <p>22 A Mr. Merrill was standing up. The three officers were 23 right behind him. I then exited my vehicle. And at the 24 point that I exited my vehicle, Mr. Merrill was falling 25 to the ground.</p>	<p style="text-align: right;">Page 140</p> <p>1 the jeans were.</p> <p>2 Q Do you remember what he was wearing on top?</p> <p>3 A He had a shirt on. There was no jacket. And he had a 4 shirt on. I don't remember what color the shirt was.</p> <p>5 Q But no jacket?</p> <p>6 A Not that I recall.</p> <p>7 Q Okay. From what you saw before you got out of your car, 8 did he appear to be displaying any signs of aggression?</p> <p>9 A His gait or his walk would lead me to believe my -- just 10 looking at what I observed, it was almost like he knows 11 the officers are there and he's continuing to move away.</p> <p>12 Q Okay. So he was moving away from the officers?</p> <p>13 A Yes.</p> <p>14 Q But his hands are at his sides, correct?</p> <p>15 A That's what I recall at this time, yes.</p> <p>16 Q So they weren't balled up near his face in fists?</p> <p>17 A No.</p> <p>18 Q Did he have any weapons in his hands from what you could 19 see?</p> <p>20 A No.</p> <p>21 Q As he was walking away from the officers, was he walking 22 slowly, or was he walking quickly?</p> <p>23 A I would say he was walking away aggressively, in an 24 aggressive, rapid manner.</p> <p>25 Q So you would say it was rapid?</p>
<p style="text-align: right;">Page 139</p> <p>1 Q All right. So let's take you back. Before you exit the 2 patrol vehicle, you were looking out your window, and you 3 see Mr. Merrill with the officers behind him, correct?</p> <p>4 A Correct.</p> <p>5 Q What is Mr. Merrill doing before you get out of your 6 patrol vehicle?</p> <p>7 A He's still moving to the east.</p> <p>8 Q So he's moving toward your patrol vehicle?</p> <p>9 A That's correct.</p> <p>10 Q Where are his hands?</p> <p>11 A I recall his hands being down by his side.</p> <p>12 Q Did you notice anything else about his appearance?</p> <p>13 A He appeared to be a larger male.</p> <p>14 Q What made you -- how did he appear larger?</p> <p>15 A His size, his physical characteristics.</p> <p>16 Q How tall would you say he was?</p> <p>17 A Six foot one.</p> <p>18 Q About how heavy would you say he was?</p> <p>19 A Two seventy-five to three hundred pounds.</p> <p>20 Q Do you remember what he was wearing?</p> <p>21 A Just remember white shoes, white tennis shoes, and I 22 think they were Adidas, low tops, low cut.</p> <p>23 Q Can you remember his pants?</p> <p>24 A He had pants on. I don't recall what color, and I believe they were jeans, but I don't recall what color</p>	<p style="text-align: right;">Page 141</p> <p>1 A Correct.</p> <p>2 Q How would it be aggressive if he's walking away from the 3 officers?</p> <p>4 A It was the manner in which he was doing it, plus his body 5 appeared to be tense.</p> <p>6 Q Okay.</p> <p>7 A Not like a normal gait or a normal walking, you know, 8 like somebody's just walking along.</p> <p>9 Q So, his body appeared tense. But would you agree that if 10 someone is walking away, typically, that isn't a sign of 11 aggression? That's someone trying to avoid something as 12 opposed to meeting something head on?</p> <p>13 A As a police officer, somebody could walk away, but to 14 me it was an aggressive manner in which he was walking 15 away. It's not just somebody typically going, "I'm not" 16 -- you know, I could tell if somebody's, "Well, I'm not 17 gonna stop and talk to you. I don't want to talk to 18 you."</p> <p>19 Q But wouldn't you agree that aggression --</p> <p>20 A Aggressive is the term that I used.</p> <p>21 Q Okay. So are you saying that he was displaying 22 aggression toward the officers?</p> <p>23 A No.</p> <p>24 Q Okay. So even though you say "aggressive," he wasn't displaying aggression towards the officers?</p>

(Pages 138 to 141)

<p style="text-align: right;">Page 146</p> <p>1 ground, was he still on the ground?</p> <p>2 A Yes.</p> <p>3 Q So when you approached Bobby Merrill, he was still on the</p> <p>4 ground?</p> <p>5 A Yes.</p> <p>6 Q Okay. The other officers, were they standing right there</p> <p>7 as well?</p> <p>8 A Yes. Well, they weren't standing. They were down</p> <p>9 attempting to take him into custody.</p> <p>10 Q Okay. So did Officers Severs, Wietecha and Guest reach</p> <p>11 Bobby Merrill before you did?</p> <p>12 A Yes.</p> <p>13 Q And could you see what they were doing to Bobby Merrill</p> <p>14 as you were approaching the area?</p> <p>15 A Yes.</p> <p>16 Q Who was doing what?</p> <p>17 A I don't remember who was doing what. But I believe that</p> <p>18 Officer Wietecha -- well, I will say this. They were</p> <p>19 trying to take him into custody, because Officer Wietecha</p> <p>20 was on the left side of Mr. Merrill.</p> <p>21 Officer Guest was also on the left side towards</p> <p>22 the rear of -- I shouldn't say the rear, but towards the</p> <p>23 back legs of Mr. Merrill.</p> <p>24 Officer Severs was on his -- I believe, on his</p> <p>25 right side or in between his two legs, near the legs and</p>	<p style="text-align: right;">Page 148</p> <p>1 vehicle.</p> <p>2 Q Okay. So he was on the other side of your vehicle when</p> <p>3 he got tased?</p> <p>4 A When he went down, yes.</p> <p>5 Q And so you couldn't see whether or not he went all the</p> <p>6 way down to the ground or whether or not he was just on</p> <p>7 his knees?</p> <p>8 A That's correct. Based on what I observed when he fell,</p> <p>9 it would have appeared at that time that he actually went</p> <p>10 all the way down to the ground, stomach flat on the</p> <p>11 ground.</p> <p>12 Q Okay. So, and stomach flat on the ground, you mean face</p> <p>13 first?</p> <p>14 A Stomach touching the ground.</p> <p>15 Q Okay. By the time you approached Bobby Merrill and the</p> <p>16 other officers, what was his position?</p> <p>17 A He was -- his stomach was no longer touching the ground.</p> <p>18 His front of his body was facing the concrete of the</p> <p>19 roadway, but he was no longer stomach touching the</p> <p>20 ground. He was actually attempting to get up off the</p> <p>21 ground.</p> <p>22 Q Okay. How long did it take you to get from your patrol</p> <p>23 car to the area where he was on the ground?</p> <p>24 A Two to three seconds, tops.</p> <p>25 Q All right. And what was Officer Wietecha doing on the</p>
<p style="text-align: right;">Page 147</p> <p>1 torso area.</p> <p>2 And I went to Mr. Merrill's right side to try</p> <p>3 to get his right arm out from under him.</p> <p>4 Q At the time you approached, was Bobby Merrill on his back</p> <p>5 or on his stomach?</p> <p>6 A Could you be more specific with your question? And the</p> <p>7 reason I ask is, could you tell me if -- I know that</p> <p>8 you're saying on his back or on his stomach, but</p> <p>9 Mr. Merrill was like on his knees, kind of in a hunched</p> <p>10 over -- I mean, if you want to say was he --</p> <p>11 Q Okay. Let me clarify that. When you saw Bobby Merrill</p> <p>12 get tased and he fell to the ground, did he fall</p> <p>13 completely to the ground, or was he supporting himself in</p> <p>14 some way?</p> <p>15 A No, he went right to the ground.</p> <p>16 Q And when he fell to the ground, was he lying on his --</p> <p>17 lying on the ground, or was he kneeling on the ground?</p> <p>18 A (No response)</p> <p>19 Q Just after you get to him?</p> <p>20 A Kneeling on the ground.</p> <p>21 Q Well --</p> <p>22 A Just afterwards?</p> <p>23 Q Just after he was tased.</p> <p>24 A Just after he was tased, I couldn't see that because I'm</p> <p>25 moving around from my vehicle, the location of my</p>	<p style="text-align: right;">Page 149</p> <p>1 left side of Bobby Merrill as you approached?</p> <p>2 A Attempting to take him into custody.</p> <p>3 Q How was he attempting to effect that?</p> <p>4 A I recall him attempting to get a hold of Mr. Merrill's</p> <p>5 arm, his left arm.</p> <p>6 Q What was Officer Guest doing when you approached?</p> <p>7 A Same. Also trying to get a hold of his left arm.</p> <p>8 Q So Officer Guest was also trying to grab Bobby Merrill's</p> <p>9 left arm?</p> <p>10 A Attempting to pull it out from under him. He had it like</p> <p>11 tucked in the left side, which would be by the belt line,</p> <p>12 the waistline.</p> <p>13 Q So he had it tucked under his -- under his stomach?</p> <p>14 A Yeah, he had it -- yeah, tucked by his waistline where we</p> <p>15 could not observe it, where I could not observe it. I</p> <p>16 don't know if they could.</p> <p>17 Q And at this point --</p> <p>18 A Because I'm on the right side.</p> <p>19 Q At this point you're saying he's no longer stomach flat</p> <p>20 on the ground?</p> <p>21 A No.</p> <p>22 Q Okay. What was Officer Severs doing?</p> <p>23 A Specifically, I don't know.</p> <p>24 Q So you don't remember what he was doing to try to</p> <p>25 restrain Bobby Merrill?</p>

(Pages 146 to 149)

<p style="text-align: right;">Page 150</p> <p>1 A No.    2 Q But you know that he was on the right side of Bobby    3 Merrill?    4 A He was like, yes, like kind of right behind me. But I    5 don't know what he was doing.    6 Q Okay. So Severs was behind you at this point?    7 A Yes.    8 Q All right. As you approached, what did you do?    9 A I went to his right side, attempted to get his right arm    10 out from under him. It did not work. At that time --    11 Q I'm going to slow you down for a second.    12 How did you try to get the right arm?    13 A Grab it, pull it out.    14 Q Where was his right arm?    15 A It was up in front, like right up in here, like up    16 towards the -- like his chest area, let's say.    17 Q Was he still on his knees at this point?    18 A Yeah.    19 Q Okay. And I imagine, given that you said he was still    20 kind of facing the concrete earlier, is he kind of    21 hunched over his knees?    22 A Yeah, he was kind of on his knees and hunched forward,    23 you know, not straight up but actually hunched forward.    24 Q And you said that the left arm was tucked by the belt    25 line, and the right arm that you're grabbing at is up</p>	<p style="text-align: right;">Page 152</p> <p>1 cartridge from it and drive-stunned him.    2 Q At this point, had Bobby Merrill tried to strike any of    3 the officers?    4 A Not that I had observed.    5 Q Okay. At this point -- well, strike that.    6 Before you drive-stunned Bobby Merrill, did you    7 let him know that you were going to stun him?    8 A No.    9 Q So you didn't say, "Put your hands behind your back or    10 I'm going to stun you"?    11 A No.    12 Q Okay. At the time that you drive-stunned Bobby Merrill,    13 was he still on his knees?    14 A Yes.    15 Q So he wasn't standing?    16 A No.    17 Q Was he still hunched over?    18 A Yes.    19 Q I apologize. Just give me one... I'm going to show you a    20 document. These are Requests for Admissions that were    21 directed toward you, I'm assuming answered by your    22 attorney. Did you ever see this document --    23 A Yes.    24 Q -- the Request for Admissions?    25 I would like to direct your attention to</p>
<p style="text-align: right;">Page 151</p> <p>1 near the chest?    2 A Yes.    3 Q All right. When you grabbed Bobby's right arm, did you    4 tell anything to him -- tell him anything?    5 A Just to, "Put your hands behind your back."    6 Q Did he give any response?    7 A No.    8 Q Did you try talking to Bobby Merrill at this point?    9 A Repeatedly, "Put your hands behind your back."    10 Q So you repeated, "Put your hands behind your back. Put    11 your hands behind your back. Put your hands behind your    12 back"?    13 A Yes.    14 Q What was your manner of which that you told him that?    15 A With authority: "Put your hands behind your back."    16 Q Okay. So you used -- you were using an authoritative    17 tone to tell him that?    18 A Yes.    19 Q And you're saying that he didn't comply?    20 A He did not comply.    21 Q Did he ever give you a verbal response?    22 A No, not that I recall.    23 Q Okay. What happened after you couldn't get his right    24 arm?    25 A I took out my department-issued taser, removed the</p>	<p style="text-align: right;">Page 153</p> <p>1 Request to Admit Number 8. It says, "Please admit that    2 Defendant Officer Jeff Madaj deployed his taser on the    3 decedent, Bobby Merrill, without first providing warning    4 or notification."    5 You denied that as untrue, correct?    6 A That's correct.    7 Q And here today you're testifying that you did not tell    8 Bobby Merrill that you were going to deploy your taser if    9 he didn't comply, correct?    10 A That's correct.    11 Q Okay.    12 MR. BRUNETTI: I'm going to ask this be marked    13 and admitted as Exhibit 2.    14 (Deposition Exhibit Number 2 was marked    15 for identification by the reporter)    16 MR. BRUNETTI: And I'm also going to have the    17 interrogatories marked and admitted as Exhibit 3,    18 probably. Why don't we just do that now, because we    19 referred to these earlier.    20 (Deposition Exhibit Number 3 was marked    21 for identification by the reporter)    22 Q (BY MR. BRUNETTI) After you drive-stunned Bobby Merrill    23 with your taser, and that's -- just for clarification    24 again, that's where you take the cartridge off and you    25 actually take the body of the taser and put it up to the</p>

(Pages 150 to 153)

<p style="text-align: right;">Page 154</p> <p>1      person, correct?</p> <p>2    A    That's correct.</p> <p>3    Q    Okay. Did he respond to that stun?</p> <p>4    A    None whatsoever.</p> <p>5    Q    Did he physically respond to that stun?</p> <p>6    A    No.</p> <p>7    Q    Did he cry out in pain?</p> <p>8    A    No.</p> <p>9    Q    Did his body go rigid?</p> <p>10   A    No.</p> <p>11   Q    What happened after that?</p> <p>12   A    I attempted to drive-stun him two to three more times with no effect.</p> <p>13   Q    When you first drive-stunned him, what part of his body did you put the taser on?</p> <p>16   A    Right between his shoulder blades.</p> <p>17   Q    So on his back?</p> <p>18   A    Yes.</p> <p>19   Q    When you drive-stunned him a second time, where did you put the taser?</p> <p>21   A    Same -- same location.</p> <p>22   Q    Right between the shoulder blades?</p> <p>23   A    Yes.</p> <p>24   Q    When you drive-stunned him a third time, where did you put the taser?</p>	<p style="text-align: right;">Page 156</p> <p>1    A    No.</p> <p>2    Q    Did he ever say anything as this was going on?</p> <p>3    A    He was --</p> <p>4    Q    As the tasing was going on.</p> <p>5    A    Yes, he did. I do not recall what it was in specifics. He was cussing. That I do know.</p> <p>7    Q    Okay.</p> <p>8    A    But whether it was a certain cuss word, I couldn't tell you.</p> <p>10   Q    How much time elapsed between your first trying to get Bobby Merrill's right arm out from under him and the last taser application?</p> <p>13   A    (Counting with fingers) That was five seconds right there, so -- what I just counted off. It would have approximately been five seconds.</p> <p>16   Q    Okay. So at the time that you saw you couldn't get the right arm out from under Bobby Merrill, you tased him four times in five seconds?</p> <p>19   MR. REISING: That's not what the witness said.</p> <p>20   MR. BRUNETTI: I thought that's what he said.</p> <p>21   I'm looking for clarification.</p> <p>22   THE WITNESS: Okay. I counted -- what I just counted off, I would have exactly thought that that was about five seconds. Now, you have to understand --</p> <p>25   Q    (BY MR. BRUNETTI) Okay.</p>
<p style="text-align: right;">Page 155</p> <p>1    A    Same location.</p> <p>2    Q    Same location. And did you ever apply the taser to a different portion of his body?</p> <p>4    A    Yes.</p> <p>5    Q    What other portion?</p> <p>6    A    It was his left arm --</p> <p>7    Q    Was that --</p> <p>8    A    -- near his hand.</p> <p>9    Q    And was that the last time you tased him?</p> <p>10   A    Yes.</p> <p>11   Q    Okay. Left arm near his hand. Could you show me on your arm where you would have applied the taser.</p> <p>13   A    (Demonstrating) Approximately in between the elbow and the wrist on the left arm.</p> <p>15   Q    Okay.</p> <p>16   A    It would have been the --</p> <p>17   Q    The outer edge of the left arm --</p> <p>18   A    Yes.</p> <p>19   Q    -- between the forearm and the -- between the elbow and the wrist?</p> <p>21   A    Yes.</p> <p>22   Q    Okay. Did he respond to any of those taser encounters?</p> <p>23   A    No.</p> <p>24   Q    Did he ever cry out in pain in response to any of those taser encounters?</p>	<p style="text-align: right;">Page 157</p> <p>1    A    -- going back, you know, when you say, "tase him," drive-stun --</p> <p>3    Q    Right. Let me -- let me rephrase.</p> <p>4    A    Okay.</p> <p>5    Q    Let's try to do it this way. Because, really, I'm not trying -- I don't want this to be inaccurate. I'm trying to get as accurate a picture as I can. Okay?</p> <p>8    The first application of the drive-stun taser technique that you applied between his shoulder blades, okay, how long after you had realized you're not going to get his right arm out from under him until you tased him in that position?</p> <p>13   A    Could you repeat it one more time.</p> <p>14   Q    Okay. The moment that you realized you weren't going to get his right arm out from under him, okay?</p> <p>16   A    Yes.</p> <p>17   Q    At that moment, when you realized that wasn't going to happen, how long did it take before you made that first taser application?</p> <p>20   A    Approximately three to four seconds.</p> <p>21   Q    Okay. And that initial drive-stun between the shoulder blades, how long did that application last?</p> <p>23   A    One second.</p> <p>24   Q    One second. Okay.</p> <p>25   The second application between the shoulder</p>

(Pages 154 to 157)

<p style="text-align: right;">Page 158</p> <p>1 blades, how long after the first application did that 2 occur?</p> <p>3 A Within a matter of maybe a second --</p> <p>4 Q Okay.</p> <p>5 A -- second and-a-half.</p> <p>6 Q So we've got, you're stunning him one second. Stun 7 stops. Another second goes by. Stunning him again for a 8 second. Stun stops. Correct?</p> <p>9 A Correct.</p> <p>10 Q Each drive-stun was only a second; is that correct?</p> <p>11 A That's incorrect.</p> <p>12 Q Okay. The first drive-stun was one second, correct?</p> <p>13 A Correct.</p> <p>14 Q How long was the second drive-stun?</p> <p>15 A The second drive-stun did not even stun. The gun -- 16 which I didn't know this, but I found out later that when 17 I said I tased him three or four times, I believe it was 18 four times, I actually only -- two times that I tased him 19 was the first time was for a second and the last time was 20 for a second. The two times in between, apparently, 21 the taser didn't even work.</p> <p>22 Q How did you find that out?</p> <p>23 A Through the records. I know that the second taser worked 24 for a fact because Officer Guest jumped back and said, 25 "What the fuck?" It actually went through --</p>	<p style="text-align: right;">Page 160</p> <p>1 effect.</p> <p>2 The fourth one, when I put it right here, 3 (Indicating left forearm), the other officer had his arm 4 and --</p> <p>5 Q I got you. I misunderstood. I thought --</p> <p>6 A Okay.</p> <p>7 Q I thought you had said that when you applied the taser 8 the second time, even though the record said it didn't 9 work, that you heard the officer scream out, "What the 10 fuck?"</p> <p>11 A No. That's was the fourth time that --</p> <p>12 Q Okay.</p> <p>13 A -- my fourth time --</p> <p>14 Q I got you.</p> <p>15 A -- which, in my head, it was my fourth time that I 16 deployed the taser.</p> <p>17 Q I apologize. I misunderstood.</p> <p>18 So you attempted to drive-stun him a second 19 time in the back between the shoulder blades?</p> <p>20 A Yes.</p> <p>21 Q Your understanding, from what someone told you of the 22 records, is that that didn't work?</p> <p>23 A That's correct.</p> <p>24 Q How long after you tried the second application did you 25 try the third application?</p>
<p style="text-align: right;">Page 159</p> <p>1 Q Okay.</p> <p>2 A -- Mr. Merrill's arm when he was trying to get the cuff 3 on him. And he jumped back and that's exactly what he 4 said was, "What the fuck?"</p> <p>5 Q Okay. So let me slow you down. So we know for a fact 6 the first tase worked, the first drive-stun?</p> <p>7 A Yes.</p> <p>8 Q Because the records show that first drive-stun worked?</p> <p>9 A Yes, for one second.</p> <p>10 Q For one second.</p> <p>11 With the second drive-stun, you're saying that 12 you saw records that said that that didn't work, correct?</p> <p>13 A The records that I observed or that I was informed with, 14 I didn't observe, I was informed that I only had two 15 one-second tase -- tasings, drive-stuns. Let's use 16 drive-stuns.</p> <p>17 Q Right. Okay. But even though the records say the second 18 one wasn't effective, as you applied the second one, you 19 heard Officer -- which officer was it cry out?</p> <p>20 A The last one that I tased him with.</p> <p>21 Q Okay. I misunderstood.</p> <p>22 A See, the first one worked.</p> <p>23 Q Yeah. I'm sorry. I misunderstood.</p> <p>24 A The second two didn't work -- or the second and third 25 one, which I thought I was drive-stunning him, had no</p>	<p style="text-align: right;">Page 161</p> <p>1 A Second, second and-a-half.</p> <p>2 Q So it was another quick pause, and then another 3 drive-stun?</p> <p>4 A Yes.</p> <p>5 Q And you made the application, the taser actually touched 6 Bobby Merrill, correct?</p> <p>7 A Yes.</p> <p>8 Q But you're saying that the records show that it didn't 9 discharge?</p> <p>10 A It did not discharge any electrical voltage, or whatever 11 you want to call that.</p> <p>12 Q Right.</p> <p>13 A Volts or joules, whatever it's called.</p> <p>14 Q Joules.</p> <p>15 A Thank you.</p> <p>16 Q How long after the third attempted application of the 17 drive-stun technique did it take before you applied the 18 fourth drive-stun technique on the arm?</p> <p>19 A Second and-a-half to two seconds.</p> <p>20 Q So you tried it again for the third time on the back and 21 no response, right?</p> <p>22 A No response.</p> <p>23 Q So you then tried it on the portion of the arm that you 24 indicated?</p> <p>25 A Yes.</p>

(Pages 158 to 161)

<p style="text-align: right;">Page 162</p> <p>1 Q And when you tried it on the portion of the arm, Bobby 2 Merrill didn't respond? 3 A No. 4 Q But one of the officers responded? 5 A Yes. 6 Q And which officer was that again? 7 A Officer Guest. 8 Q Guest. And Officer Guest cried out? 9 A Yes. 10 Q Okay. At the time that you were attempting to apply the 11 drive-stun technique on Mr. Merrill's left forearm, where 12 was Officer Guest? 13 A He actually had a hold of his left hand trying to get 14 the -- 15 Q The hand? 16 A -- his hand back behind his back so he could get a cuff 17 on it. 18 Q What was Officer Severs doing at this point? 19 A I don't know. 20 Q Is he still behind you? 21 A He's like behind me to my left, as I recall. 22 Q Okay. Do you know what Officer Wietecha is doing at this 23 point? 24 A I do not recall at this time. 25 Q Do you know if anyone else deployed a taser on Bobby</p>	<p style="text-align: right;">Page 164</p> <p>1 Q I'm sorry. I'm -- 2 A To the best of my recollection, that's how he was taken 3 into custody. 4 Q I'm sorry. I'm going to have to slow you down again. 5 That was a lot of information too quick, and I kind of 6 garbled it. I apologize. 7 So, all right, the drive-stun doesn't work. 8 Officer Guest, you said, was able to get control of the 9 left hand? 10 A Officers Guest and Wietecha. 11 Q How did they get control of the left hand? 12 A Through the use of their hands. 13 Q They were both able to sort of strong-arm it into 14 position? 15 A Yes. 16 Q Did they do anything else other than attempt to 17 physically move his hand or his arm? 18 A Place handcuffs on it. 19 Q Did either one ever use a baton or some sort of strike to 20 try to get him to comply? 21 A I don't recall. I don't ever recall observing a baton 22 strike or a knee strike. 23 Q At this point, as they're both struggling for his left 24 arm, where are you? 25 A On his right side, up like near his shoulder blade area.</p>
<p style="text-align: right;">Page 163</p> <p>1 Merrill as you were deploying a taser on Bobby Merrill? 2 A I do not recall that. 3 Q Is it possible? 4 A If they would have deployed it, it would have been a 5 drive-stun. It wouldn't have been the darts being 6 deployed. It would have been a drive-stun instead of the 7 darts being deployed, meaning coming out of the 8 cartridge. 9 Q But if you can't see Officer Severs, and you're not sure 10 what Officer Wietecha is doing, is it possible they could 11 have drive-stunned him? 12 A No. Because when the taser cartridge is fired, it's a 13 (Clapping hands together) pop. 14 Q Okay. And you didn't hear a pop? 15 A No. 16 Q I got you. 17 After the drive-stun, the fourth drive-stun on 18 Bobby Merrill's left arm didn't work, what happened next? 19 A The taser was pretty much nonexistent -- not going to work. 20 And at that time, myself and Severs, I believe it was 21 Officer Severs, were able to get his right hand, get one 22 cuff on it. And then Officers Wietecha and Guest were 23 finally able to get his left arm out from under him, it 24 was by his side, and ended up managing getting a cuff on 25 there, and he was cuffed.</p>	<p style="text-align: right;">Page 165</p> <p>1 Q Okay. What are you focused on once you've realized the 2 taser isn't going to work? 3 A Looking at his left arm -- or his left hand, because 4 that's where I'm going next. Since, boom, boom, no 5 effect, I'm going this way with it. 6 Q So you're looking at the left hand, and Officer Wietecha 7 and Officer Guest are both focused on the left arm as 8 well? 9 A They are on his left side, yes. 10 Q Okay. How long after the drive-stun didn't work until 11 they were able to get control of his left arm? 12 A Three to four seconds. 13 Q At this point, has Bobby Merrill struck any of the 14 officers? 15 A At this point, I know that Mr. Merrill did not strike me. 16 Q Okay. You know he didn't strike you? 17 A That's correct. 18 Q Did you see him strike anyone else? 19 A No. 20 Q All right. What happened after Officers Guest and Severs 21 were able to get control -- or, I'm sorry, Guest and 22 Wietecha were able to get control of the left arm? 23 A We were finally -- I'm not sure who assisted me, but we 24 were able to get a hold of his right arm and get him into 25 handcuffs, and we used two sets of handcuffs at that</p>

(Pages 162 to 165)

<p style="text-align: right;">Page 166</p> <p>1 point.</p> <p>2 Q Okay. Is he still on his knees, Bobby Merrill?</p> <p>3 A At this point, he would have been I would say more --</p> <p>4 he's flat on the ground now.</p> <p>5 Q He's flat on the ground. So sometime between the last</p> <p>6 drive-stun to his arm and the point when he's in cuffs,</p> <p>7 he ends up flat on the ground?</p> <p>8 A Face down.</p> <p>9 Q Face down. Do you remember how he ended up face down?</p> <p>10 A Knowing when his right arm came out from under him, we</p> <p>11 were able to get that, and then you handcuff his left</p> <p>12 arm. He was no longer on his knees. He was laid out</p> <p>13 flat.</p> <p>14 Q So it was sometime after you were able to get control of</p> <p>15 his right arm, maybe simultaneously, he went down?</p> <p>16 A Yes.</p> <p>17 Q Okay.</p> <p>18 A That would be an accurate statement on your behalf,</p> <p>19 maybe -- not maybe, but it was simultaneously after we</p> <p>20 come around and --</p> <p>21 Q Because all this is kind of happening at once, right?</p> <p>22 A Yes.</p> <p>23 Q All right. As you get him cuffed, you said you had to</p> <p>24 use two sets of cuffs. Where is the first set of cuffs</p> <p>25 applied?</p>	<p style="text-align: right;">Page 168</p> <p>1 act of cuffing of the wrists is going on, have you</p> <p>2 stricken Bobby Merrill with anything?</p> <p>3 MR. REISING: I'm sorry. I missed that</p> <p>4 question.</p> <p>5 Q (BY MR. BRUNETTI) After he was cuffed, okay, so after</p> <p>6 you've got the cuffs, one on each hand, and then the sets</p> <p>7 interlinked, so he's cuffed with that 12 to 15 inches of</p> <p>8 space behind his back, as that's happening, as he's</p> <p>9 finally cuffed, is he struck with anything by you or by</p> <p>10 any of the other officers?</p> <p>11 A No, not to my knowledge. He was not struck by me, and I</p> <p>12 did not observe any other officers strike him.</p> <p>13 Q Okay. What happened after you got him cuffed?</p> <p>14 A After he was handcuffed, obviously, we all stood up. We</p> <p>15 got off -- up off the ground. Stood up. Took a look at</p> <p>16 the situation. Look at what's going on around you, your</p> <p>17 senses.</p> <p>18 You're going to be looking around because,</p> <p>19 obviously, there's traffic that's flowing through there,</p> <p>20 traffic that's stopped. You've got onlookers. Take a</p> <p>21 look at the situation.</p> <p>22 At that point, we knew that based on -- within</p> <p>23 a matter of seconds after talking with the other -- with</p> <p>24 Officer Severs, basically, it was my judgment that we</p> <p>25 were going to have an ambulance come to the scene right</p>
<p style="text-align: right;">Page 167</p> <p>1 A Behind his back.</p> <p>2 Q Are they on one wrist?</p> <p>3 A One to each wrist.</p> <p>4 Q Okay. One from the same set of cuffs or one from a</p> <p>5 different set of cuffs?</p> <p>6 A One from different sets.</p> <p>7 Q Okay.</p> <p>8 A He's a big man.</p> <p>9 Q Okay. Where was the other set of each cuff -- or where</p> <p>10 was the other cuff from each set applied?</p> <p>11 A Interlinked with the other one. So you had one cuff from</p> <p>12 one set on his right arm, one cuff from the other set on</p> <p>13 the left arm. And then the two cuffs that come off of</p> <p>14 each arm, those two were interlinked together.</p> <p>15 Q Okay. And his arms were behind his back at this point?</p> <p>16 A Yes.</p> <p>17 Q About how much distance separated his left hand from his</p> <p>18 right hand?</p> <p>19 A Well, I'll say a set of cuffs are what? Probably 12</p> <p>20 inches, 13 inches?</p> <p>21 Q So he had about a foot of space --</p> <p>22 A Yes.</p> <p>23 Q -- between each hand?</p> <p>24 A I'd say 12 to 15 inches of space.</p> <p>25 Q Okay. At any point while this is going on, as the final</p>	<p style="text-align: right;">Page 169</p> <p>1 away. So we called for the Mobile Medical Response Unit,</p> <p>2 Saginaw County's ambulance service.</p> <p>3 After that, I went over by Mr. Merrill, and he</p> <p>4 proceeded to sweep his feet back and forth in a kicking</p> <p>5 motion, trying to kick me off my feet.</p> <p>6 Q Okay. I'm going to slow you down.</p> <p>7 After you got him cuffed in his wrists, by his</p> <p>8 wrists, was there a period where he was just lying there</p> <p>9 on the ground?</p> <p>10 A (Nodding head affirmatively) Lying on his side.</p> <p>11 Q Okay. So after you got him cuffed, and you said that</p> <p>12 after he was -- as he was being cuffed, he's lying face</p> <p>13 down on the cement, right?</p> <p>14 A Yes.</p> <p>15 Q So after he's cuffed, he ends up on his side?</p> <p>16 A Yeah, he's on his side.</p> <p>17 Q Okay. And what side is he on; his right or his left?</p> <p>18 A He is on his -- he's on his left side.</p> <p>19 Q Okay. Is he saying anything at this point?</p> <p>20 A Oh, yeah.</p> <p>21 Q What's he saying?</p> <p>22 A Swearing. Swearing up a storm.</p> <p>23 Q All right. Is he coherent?</p> <p>24 A Yes.</p> <p>25 Q And did you get a chance to look at his eyes?</p>

(Pages 166 to 169)

<p style="text-align: right;">Page 170</p> <p>1 A I looked at his face. Can't say that his eyes -- that I 2 recall anything specific about his eyes at this time. 3 Q Could you notice anything about him after you had a 4 chance to sort of step back and take a look at him? 5 A No. Because the -- no, I couldn't. I didn't. 6 Q Okay. How did it end up that he wound up on his left 7 side? 8 A I recall after he was on the ground, we stood up. He 9 rolled over onto his left side. We didn't -- I didn't 10 pick him up. I don't know if another officer did, but I 11 don't recall anyone picking him up at that point, at that 12 particular point. 13 Q Okay. Had the situation de-escalated at that point for 14 even a moment? 15 A Briefly. 16 Q All right. So as you're looking around you, what else 17 did you see around you at this time? 18 A Cars. Traffic backed up. There was a couple people on 19 the -- it would be the southeast corner that were there 20 when we were attempting to take him into custody. 21 Q Okay. How many -- were their cars in both directions -- 22 A Yes. 23 Q -- on Washington? 24 A Yes. 25 Q That were stopped? Were they stopped in both directions?</p>	<p style="text-align: right;">Page 172</p> <p>1 moment? 2 A I went over there. I obviously was going to go and -- I 3 actually was going to stand the guy up. But when I went 4 over there, he started flailing and kicking his legs 5 trying to kick me off -- off of -- knock me off my feet. 6 So, at that point, I don't recall who the other 7 officer was, but there was another officer that he was 8 kicking at. I said, well, I'll go over there and 9 attempted to secure his legs by sitting on them -- on his 10 legs. When I did so -- 11 Q Whose idea was it to sit on his legs? 12 A Mine. 13 Q Your idea? 14 A Yes. 15 Q Okay. And when you attempted to sit on his legs, was he 16 still on his side, or was he on his stomach, or was he -- 17 A No. 18 Q -- on his back? 19 A Still on his side. 20 Q Still on his side? 21 A (Nodding head affirmatively) 22 Q Okay. So you -- explain how you effected sitting on his 23 legs. 24 A I tried to use my weight to subdue his legs from moving 25 back and forth. It had no -- it didn't have any desired</p>
<p style="text-align: right;">Page 171</p> <p>1 A Yes. 2 Q At the point where Bobby Merrill is cuffed, where is he? 3 Is he in the street? Is he on the sidewalk? Is he on 4 the grass? 5 A Right in the middle of the roadway. 6 Q Right in the middle of the roadway? 7 A Yes. 8 Q Was he in the middle of the intersection, or is he back 9 from the intersection? 10 A He'd have been to the north of the intersection, 11 approximately 10 to 15 feet north. 12 Q Okay. How many cars did you see stopped? 13 A Several. We're talking backed up both directions. 14 Q Do you have an approximate of how many cars you saw? Was 15 it only a handful, like two or three -- 16 A Oh, no. 17 Q -- or was it something -- 18 A We're talking -- 19 Q -- like seven, eight, nine? 20 A -- multiple as in 30 to 40 cars in both directions. 21 Q Did you speak to any of the drivers in those cars? 22 A I did not. 23 Q Okay. So you testified that Merrill's on his left side? 24 A Yes. 25 Q What happens after the situation had de-escalated for a</p>	<p style="text-align: right;">Page 173</p> <p>1 effect. 2 Q When you say "sit," I mean, did you sort of kneel on his 3 legs, or did you sit on his legs with your butt? What 4 did you do? 5 A No, I just kind of like kneeled, like, you know, to put 6 some weight onto his legs to prevent them from kicking 7 and -- 8 Q At the time that you kneeled on his legs, was he still on 9 his side, or had his position shifted? 10 A No, he was still on the side. 11 Q Okay. And you said that kneeling on his legs didn't 12 provide any effect? 13 A Desired effect, no. 14 Q What happened after that? 15 A He actually grabbed a hold of my taser. 16 Q At this point, his hands are behind his back? 17 A Yeah. And he actually grabbed a hold of my taser that I 18 had put back into my holster. 19 Q Your holster's on your left side? 20 A Yeah. Right here. 21 Q Okay. And he's laying on his left side? 22 A Yes. 23 Q What hand did he use to grab your taser? 24 A Actually, he was using -- trying to use both hands. 25 Q Trying to use both hands?</p>

(Pages 170 to 173)

<p style="text-align: right;">Page 174</p> <p>1 A Yeah.  2 Q Okay. And did he -- was he able to grab your taser?  3 A He touched my taser and had a hold of it.  4 Q What happened at that point?  5 A I obviously moved away from his position so he couldn't  6 grab my taser again.  7 Q Your taser and the holster that it's in, is it secured or  8 is it sort of loose sitting in the holster?  9 A No, it has a strap that you push forward, and you just  10 pull it out.  11 Q So it's secured with a strap, but I imagine you can pull  12 it out even though there's a strap there?  13 A Yes.  14 Q Okay. What happened after you moved away?  15 A I moved away. And by this time, one of his shoes was  16 off.  17 Q Do you know how his shoe came off?  18 A When he was kicking and flailing back and forth.  19 Q So are you saying it fell off?  20 A Yeah. He didn't have them tied. He just had them --  21 Q Slipped on?  22 A Yes.  23 Q You didn't physically take his shoe off?  24 A No.  25 Q Did any of the other officers physically take his shoe</p>	<p style="text-align: right;">Page 176</p> <p>1 Q So you were able to tie them, but it just didn't have the  2 desired effect?  3 A How do you want to -- because of his moving around, he's  4 moving around, still trying to kick, it was almost  5 impossible to actually get the shoelace to a point where  6 I would consider it tied and secure.  7 Q Right.  8 A With the movement, it was almost impossible -- it was  9 impossible. They weren't -- his ankles weren't secure.  10 Q Okay. And that's what I'm getting at. The point is, you  11 were actually able to tie the shoelaces, but you couldn't  12 tie them in a manner, again, that secured him with the  13 desired level of effect? I'm just trying to get -- were  14 you actually able to tie the laces?  15 A You know when you go to tie the knot -- tie a knot, and  16 you get the first --  17 Q Yeah.  18 A -- but you can't get the second part of the knot to  19 secure the knot and cinch it.  20 Q Yeah.  21 A I could not get the second part of the knot to tie and  22 cinch it.  23 Q So you were able to get the first part of the knot in?  24 A Yes.  25 Q Not the second part?</p>
<p style="text-align: right;">Page 175</p> <p>1 off?  2 A No.  3 Q Okay. What happened next?  4 A I removed one of the shoelaces in an attempt to secure  5 his legs so he would stop kicking and flailing.  6 Q You took one of the shoelaces from his shoe?  7 A Yep, removed it. Yes, I removed it.  8 Q And you attempted to secure his legs?  9 A Yes.  10 Q What part of his legs did you attempt to secure with the  11 shoelaces?  12 A I attempted to secure his ankles.  13 Q Were you actually able to get the shoelaces around his  14 ankles?  15 A Yes.  16 Q Were you actually able to tie his ankles with the  17 shoelaces?  18 A No.  19 Q What happened?  20 A I was unable to get the shoelaces secured, securely tied  21 around his ankles.  22 Q Now, when you say you were unable to get them securely  23 tied, were you unable to tie them, or were you unable to  24 tie them in a manner that was secure?  25 A I was unable to tie them in a manner that was secure.</p>	<p style="text-align: right;">Page 177</p> <p>1 A Yes.  2 Q All right. The using the shoelaces, was that an  3 improvised technique, or was that something you'd been  4 taught?  5 A It was improvised.  6 Q You saw that he was flailing and you just thought that  7 that was the best way to do it, to stop him from  8 flailing?  9 A To secure him.  10 Q I'm sorry, to secure him?  11 A Yes.  12 Q Okay. What happened -- at the point that you're trying  13 to secure his ankles with the shoelaces, what are the  14 other officers doing? Is anyone helping you?  15 A Actually, Officer Severs, when we couldn't get the ankles  16 tied, he had informed me that he had a rope in his  17 vehicle. Actually, called it a restraint of some type.  18 I don't --  19 Q Okay. The rope that he had, was that something that's  20 police department issued, or was that like a personal  21 item?  22 A It was a personal item.  23 Q Okay. All the vehicles that the officers arrived on  24 scene in, were those all marked police cruisers?  25 A Yes.</p>

(Pages 174 to 177)

<p style="text-align: right;">Page 178</p> <p>1 Q All of the officers on the scene, were they wearing some 2 form of uniform? 3 A Yes. 4 Q Did each of them have a badge? 5 A I don't recall if they all had a badge -- if they each 6 had a badge. 7 Q But were they all wearing uniforms that identified them 8 as police officers? 9 A Yes. 10 Q Okay. So you said that Officer Severs said that he had a 11 rope? 12 A Yes. 13 Q And this was a personal rope? 14 A He said he had a rope in his vehicle. 15 Q Okay. He had a rope in his vehicle. Is it something 16 that you'd seen issued by the police department before? 17 A No. 18 Q Okay. Did he go and get that rope? 19 A Yes. 20 Q What did you do while he went and got the rope? 21 A Stayed with Mr. Merrill. 22 Q And what were you doing with Mr. Merrill? 23 A At that point, just making sure that he wasn't kicking 24 and flailing his feet -- 25 Q So were you --</p>	<p style="text-align: right;">Page 180</p> <p>1 A It was approximately four-foot long. 2 Q What color was it? 3 A It's multicolored. 4 Q Do you know what it was made out of? 5 A Nylon. 6 Q Nylon? 7 A It appeared to be nylon. 8 Q About how thick was it? 9 A Maybe a half an inch in diameter. 10 Q Okay. And you said that you used that to restrain his 11 ankles? 12 A Yes. 13 Q Can you remember the manner in which you tied it? Did 14 you use a specific kind of knot? 15 A No, there's no knot. It's a slip. 16 Q I got you. It's a slip, yeah. So, like you said, you 17 put one end through the other end and just sort of pinch 18 it -- 19 A Yes. 20 Q -- closed? Once it's pinched closed, how did you secure 21 it? 22 A At the other end. 23 MR. REISING: Don't draw on that one. 24 MR. BRUNETTI: Yeah. I'm sorry. 25 THE WITNESS: Do you have another piece of</p>
<p style="text-align: right;">Page 179</p> <p>1 A -- trying to hold his feet down, still applying pressure 2 with my body. 3 Q So you're still trying to hold his legs together? 4 A But I had moved further down by his ankles so he couldn't 5 grab any more -- anything on my gun belt. 6 Q Right. 7 Did Severs return with the rope? 8 A Yes. 9 Q What happened after he returned with the rope? 10 A When Officer Severs returned with the rope, I know that 11 I -- I don't know if -- I can't say for sure if Officer 12 Severs assisted me placing the rope around his ankles, 13 but I know that I did my part in that and placed the rope 14 around his ankles. We then -- you know, the rope is a -- 15 basically, what it is, it's a dog leash is what it is. 16 And it has a small looped end with a larger looped end. 17 And we obviously looped it around his legs. 18 Grabbed a third set of handcuffs. Put the one end of the 19 handcuffs to the rope. Put the other end of the 20 handcuffs to the handcuffs that Mr. Merrill was currently 21 wearing. 22 Q Okay. Getting back to the rope, you said it was a dog 23 leash? 24 A It's a dog leash. 25 Q Okay. How long was it?</p>	<p style="text-align: right;">Page 181</p> <p>1 paper? 2 Q (BY MR. BRUNETTI) Yeah, I do. There you go. 3 A Okay. It has a larger loop and a smaller loop. 4 Q Right. 5 A Okay? I'm not a -- I'm not a very good drawer, but you 6 put the smaller loop through the larger loop -- 7 Q Yes. 8 A -- which then makes -- I'll draw this -- which makes the 9 loop. 10 Q Right. 11 A Then from there, this loop, this was where -- 12 Q His ankles were? 13 A Okay. 14 Q And as you tighten it, it pinches closed. 15 A And then this secured to the handcuffs. Does that make 16 sense? 17 Q It does. I'm going to ask you a few questions about it. 18 A Okay. 19 Q So, again, the manner by which the ankles are secured is 20 you would pull on this line, and then this would slide 21 down, eventually tighten and secure, right? 22 A Yes. 23 Q Okay. Now, did you do any extra sort of tying to make 24 sure it stayed secured so that this wouldn't just slide 25 back up and create space for the ankles?</p>

(Pages 178 to 181)

<p style="text-align: right;">Page 182</p> <p>1 A No, I did not.</p> <p>2 Q Okay. So you sort of hand-tightened it by pulling the 3 end of the leash, right, to make this part secure with 4 the ankles?</p> <p>5 A Yes.</p> <p>6 Q And then you're saying you took this small end of the 7 lead, and then you attached that to the handcuffs?</p> <p>8 A Yes.</p> <p>9 Q So, at this point, is Bobby Merrill still laying on the 10 ground when you first start to secure his ankles with the 11 rope?</p> <p>12 A Yes.</p> <p>13 Q When you tighten the rope to secure his ankles, is he 14 still lying on the ground?</p> <p>15 A He's actually -- No, he's -- once he's secured?</p> <p>16 Q Yes.</p> <p>17 A He's actually --</p> <p>18 Q But not -- let me rephrase that. Not at the point where the cuffs are attached, but as you're tightening it, he's still on the ground, correct?</p> <p>22 A He's actually -- Yes.</p> <p>23 Q Is he sitting or is he laying?</p> <p>24 A He's still on his left side.</p> <p>25 Q He's still on his left side?</p>	<p style="text-align: right;">Page 184</p> <p>1 rolled over onto his buttocks and actually was kind of 2 sitting up. He was sitting up. Do you want me to go on 3 more with --</p> <p>4 Q Yes.</p> <p>5 A -- what I observed.</p> <p>6 Q Yes.</p> <p>7 A Just to the side of him I observed a crack pipe and a 8 lighter.</p> <p>9 Q Is this on the street?</p> <p>10 A Right where we took -- excuse me -- right where he was 11 taken into custody, right when he rolled over onto 12 his buttocks, I see the crack pipe and a lighter. And I 13 recognized the crack pipe because I worked narcotics for 14 almost ten years. So I'm familiar with what a crack pipe 15 looks like.</p> <p>16 Q Okay.</p> <p>17 A I've actually used them as props when I've done 18 undercover work. So, I said to Bobby, I said, "Man, how much 20 crack did you smoke today?"</p> <p>21 MR. REISING: Excuse me. Did you say what side 22 it was on you saw the crack pipe and lighter?</p> <p>23 Q (BY MR. BRUNETTI) Yeah. Specify. What side was the 24 crack pipe and lighter?</p> <p>25 A It would have been on Bobby's right side --</p>
<p style="text-align: right;">Page 183</p> <p>1 A Yes.</p> <p>2 Q Okay. At this point, before we talk about securing the 3 rope with the handcuffs, is he still handcuffed behind 4 his back with two sets of cuffs?</p> <p>5 A Yes.</p> <p>6 Q All right. So then the rope is completely tight around 7 his ankles, he's secured with two sets of cuffs. Do you 8 take a third set of cuffs to attach to this?</p> <p>9 A Yes. This third -- this is the third set of cuffs right 10 here --</p> <p>11 Q Okay.</p> <p>12 A -- that you see.</p> <p>13 Q So you didn't take one of the sets that was already on 14 him and pinch his arms closer together? He still had two 15 sets giving him 12 to 15 inches of space for his hands?</p> <p>16 A That's correct.</p> <p>17 Q And the third set of cuffs was attached to that chain of 18 cuffs and then attached to this rope?</p> <p>19 A Yes.</p> <p>20 Q How much space was there from his wrists to his ankles 21 once everything was attached?</p> <p>22 A Enough that he could stand up.</p> <p>23 Q All right. Before I get to him standing up, once he was 24 secured in this fashion, what happened after that?</p> <p>25 A Once he was secured in that fashion, he's all secure, he</p>	<p style="text-align: right;">Page 185</p> <p>1 MR. REISING: Thank you.</p> <p>2 Q (BY MR. BRUNETTI) Okay.</p> <p>3 A -- as he's facing me. So at that point, I asked him, I said, "How 5 much crack did you smoke today?" And Mr. Merrill replied 6 he'd smoked 20 rocks of crack cocaine.</p> <p>7 Q Could you understand him clearly?</p> <p>8 A Yes.</p> <p>9 Q Is that specifically what he said, "I smoked 20 rocks of 10 crack cocaine"?</p> <p>11 A Yes.</p> <p>12 Q He said it just like that?</p> <p>13 A Just like that.</p> <p>14 Q Okay. What was your response?</p> <p>15 A I said, basically, "Holy shit. You're lucky you're still 16 alive."</p> <p>17 Q Did he appear to be under the influence at that point?</p> <p>18 A He appeared to me to be under the influence of something 19 based on his actions that he had taken with taking him 20 into custody. So, yes --</p> <p>21 Q When did --</p> <p>22 A -- to me.</p> <p>23 Q When did you realize that he was under the influence of 24 something?</p> <p>25 A When I exited my patrol vehicle and attempted to -- we</p>

(Pages 182 to 185)

<p style="text-align: right;">Page 190</p> <p>1 A No.</p> <p>2 Q -- did any kind of strike?</p> <p>3 As you were getting the second -- binding his</p> <p>4 ankles together, did anyone ever deploy a taser after</p> <p>5 that?</p> <p>6 A No.</p> <p>7 Q So as far as you know, the last time a taser was deployed</p> <p>8 was when you got him on the left arm?</p> <p>9 A That's correct.</p> <p>10 Q Okay. All right. So, how long after Bobby was</p> <p>11 restrained did it take for the ambulance to get there?</p> <p>12 A Two to three minutes.</p> <p>13 Q All right. At some point, was Bobby ever placed in a</p> <p>14 patrol car?</p> <p>15 A Yes.</p> <p>16 Q All right. How long after he was restrained was he</p> <p>17 placed in a patrol car?</p> <p>18 A Thirty seconds after he was -- secured legs, he made the</p> <p>19 statement to me about smoking the crack.</p> <p>20 Q Joked for a second?</p> <p>21 A Yeah, joked for a second. And that's when I looked at</p> <p>22 traffic and said, "We've got to get this traffic out of</p> <p>23 here. We've got to get these people moving."</p> <p>24 Q How did Bobby Merrill get from the street to the patrol</p> <p>25 car?</p>	<p style="text-align: right;">Page 192</p> <p>1 A Yes.</p> <p>2 Q Okay. So you're saying that even though there was no</p> <p>3 slack, he could have moved forward under his own power?</p> <p>4 A Yes.</p> <p>5 Q Okay. Did he tell you why he wasn't going to walk?</p> <p>6 A No.</p> <p>7 Q Did you ask him to walk?</p> <p>8 A Yes.</p> <p>9 Q Did any of the other officers ask him to walk?</p> <p>10 A No.</p> <p>11 Q You're the only officer that asked him to walk?</p> <p>12 A I asked him, "You can either do this like a man, or you</p> <p>13 can do it like a punk." His response was, "I'm gonna do</p> <p>14 it like a punk."</p> <p>15 Q You told him, "You can do this like a man, or you can do</p> <p>16 it like a punk"?</p> <p>17 A Yes.</p> <p>18 Q You didn't say, "Come on, just walk to the car"?</p> <p>19 A Nope.</p> <p>20 Q You didn't say, "You're only making stuff worse. Why</p> <p>21 don't you just walk to the car"?</p> <p>22 A No.</p> <p>23 Q And you were just joking with him 30 seconds ago, right?</p> <p>24 A That's correct.</p> <p>25 Q After that exchange, interaction, how was he actually</p>
<p style="text-align: right;">Page 191</p> <p>1 A We stood him up. He could have walked. He refused to</p> <p>2 walk. And he had to be carried by three of us to the</p> <p>3 patrol vehicle.</p> <p>4 Q Just before he stood up, he was joking with you guys you</p> <p>5 said, right?</p> <p>6 A Yes.</p> <p>7 Q When he stood up, was he able to stand up straight, or</p> <p>8 was he hunched at all because of the bindings?</p> <p>9 A I recall that he was standing up straight.</p> <p>10 Q So his back wasn't being pulled down toward his ankles?</p> <p>11 He wasn't arched?</p> <p>12 A Well, I take it an arch would be going back like this?</p> <p>13 Q Yes.</p> <p>14 A No, he wasn't arched backwards.</p> <p>15 Q The manner in which he was secured, he was still secured</p> <p>16 behind his back, correct?</p> <p>17 A Yes.</p> <p>18 Q How much slack was there between the rope on his ankles</p> <p>19 when he was standing and the cuffs on his wrists?</p> <p>20 A I don't recall any slack.</p> <p>21 Q You don't recall any slack?</p> <p>22 A No.</p> <p>23 Q So you've got a guy bound behind his back with rope</p> <p>24 attached to his ankles, there's no slack, and you're</p> <p>25 saying he would have been able to walk?</p>	<p style="text-align: right;">Page 193</p> <p>1 carried?</p> <p>2 A We carried him -- how do I -- we had him, you know, like</p> <p>3 a sports injury where somebody injures their leg, and you</p> <p>4 have -- we just picked -- to the car, we probably had</p> <p>5 about ten foot to go. And the three of us carried him.</p> <p>6 One of the officers went around to the far side to open</p> <p>7 the door because he was refusing to have a seat in the</p> <p>8 car.</p> <p>9 I guess you'd have to demonstrate the carry</p> <p>10 that I think that you're looking for. If I have a</p> <p>11 shoulder --</p> <p>12 Q Well, I was going to say, I don't think all you guys want</p> <p>13 to try to carry me --</p> <p>14 A No, but if --</p> <p>15 Q -- to show me the way that he was carried.</p> <p>16 A -- if I had a shoulder --</p> <p>17 Q Okay.</p> <p>18 A -- another officer had a shoulder, you have a third</p> <p>19 officer that's walking behind him.</p> <p>20 Q Okay. So each officer -- you and another guy each have a</p> <p>21 shoulder?</p> <p>22 A Yes.</p> <p>23 Q And another guy has the leg?</p> <p>24 A Yes.</p> <p>25 Q And you just sort of -- did you tip him and pick him up?</p>

(Pages 190 to 193)

<p style="text-align: right;">Page 194</p> <p>1     Is that how it happened?</p> <p>2     A    No, we didn't tip him. We just -- he was just standing 3       up.</p> <p>4     Q    Right. He's standing up.</p> <p>5     A    And then he --</p> <p>6     Q    But you had to get him --</p> <p>7     A    -- he actually stood up, but he refused to walk.</p> <p>8     Q    Right. But you've got to get him horizontal?</p> <p>9     A    So he stood up and one guy's got one shoulder, one guy's 10      got the other shoulder.</p> <p>11    Q    Okay. I've got -- so you sort of dragged him? You 12      didn't pick him up and carry him like a table? You sort 13      of --</p> <p>14    A    No. No, not like a table. No.</p> <p>15    Q    I'm saying, so you've got each guy with a shoulder and 16      another guy carrying the legs. The guy with the legs, is 17      he carrying Bobby Merrill's legs kind of close to the 18      ground or are they picked up?</p> <p>19    A    No. He's like behind him, like with his pants, holding 20      onto his pants to get him into the vehicle --</p> <p>21    Q    Okay.</p> <p>22    A    -- to walk him to the vehicle.</p> <p>23    Q    The guy holding onto his pants, is he holding onto his 24      pants down by the -- by the -- like the leg openings, or 25      is it up by the belt loops?</p>	<p style="text-align: right;">Page 196</p> <p>1     A    Sorry. He's on his right side.</p> <p>2     Q    Pardon me. We've been here a while. I know. 3           So he's laying on his right side facing the 4      front of the vehicle?</p> <p>5     A    Yes.</p> <p>6     Q    Is he still secured with his hands behind his back?</p> <p>7     A    Yes.</p> <p>8     Q    Is the rope still tied to his ankles?</p> <p>9     A    Yes.</p> <p>10    Q    All right. Are his ankles pulled behind him at all as 11      he's laying there?</p> <p>12    A    No. No.</p> <p>13    Q    Is his body straight?</p> <p>14    A    It's kind of like -- like a semi-L.</p> <p>15    Q    When you say a semi-L, what do you mean?</p> <p>16    A    If I'm laying on my right side --</p> <p>17    Q    Mm-hmm. With your hands behind your back?</p> <p>18    A    -- with my hands behind my back. He's like this.</p> <p>19    Q    So --</p> <p>20    A    Ankles are behind him. His knees would have been tucked 21      in somewhat towards his --</p> <p>22    Q    So his knees were tucked toward his abdomen?</p> <p>23    A    Yes.</p> <p>24    Q    All right. Did he say anything as you were getting him 25      in the car?</p>
<p style="text-align: right;">Page 195</p> <p>1     A    Not, the belt loops.</p> <p>2     Q    Okay. So he's got him --</p> <p>3     A    The waistline.</p> <p>4     Q    He's got him by the waistline. And you guys put him into 5      the car. Whose cruiser did you put him in?</p> <p>6     A    I don't know whose cruiser it was.</p> <p>7     Q    Was it yours?</p> <p>8     A    No.</p> <p>9     Q    Was it the back that you put him in?</p> <p>10    A    Yes.</p> <p>11    Q    Did you put him in head first?</p> <p>12    A    Yes.</p> <p>13    Q    All right. When you put him into the cruiser, how was he 14      positioned in the cruiser?</p> <p>15    A    His head would have been to the passenger side of the 16      vehicle. He was on his left side facing the front of the 17      vehicle.</p> <p>18    Q    If his head was toward the passenger side of the vehicle, 19      and he's on his left side, he's probably facing the back 20      of the back seat --</p> <p>21    A    No.</p> <p>22    Q    -- as opposed to --</p> <p>23    A    If I'm in the vehicle -- Oh, I'm sorry. You're right. 24      It's his right. I'm sorry.</p> <p>25    Q    Okay. Okay. So he's laying --</p>	<p style="text-align: right;">Page 197</p> <p>1     A    I don't recall him saying anything.</p> <p>2     Q    Did you say anything to him as you got him in the car?</p> <p>3     A    No.</p> <p>4     Q    Did any of the other officers say anything to him as you 5      got him in the car?</p> <p>6     A    I don't recall them saying anything.</p> <p>7     Q    Okay. After you got him in the car, did you shut the 8      door through which he entered?</p> <p>9     A    I don't recall who shut the door.</p> <p>10    Q    But was the door shut?</p> <p>11    A    Yes.</p> <p>12    Q    After he was in the car, what happened? Did you stay by 13      the car, or did you walk away?</p> <p>14    A    No. The car -- I started to get the traffic moving 15      because the other vehicles -- told the other officers, 16      "Let's get the vehicles out of the road so we can get 17      traffic moving."</p> <p>18    Q    So you walked away from the car at that point?</p> <p>19    A    Yes.</p> <p>20    Q    Did any of the other officers stay with the car that you 21      just placed Bobby Merrill into?</p> <p>22    A    Yes.</p> <p>23    Q    Who?</p> <p>24    A    Officer Wietecha ended up in that vehicle.</p> <p>25    Q    He didn't leave? He stayed with the vehicle?</p>

(Pages 194 to 197)

<p style="text-align: right;">Page 198</p> <p>1 A Yes, he was with the vehicle at that point.      2 Q Was he inside the vehicle or out of the vehicle?      3 A He was inside the vehicle. We actually moved that      4 vehicle onto Gilmore.      5 Q So after Bobby Merrill was placed into the vehicle, the      6 vehicle was moved?      7 A Immediately afterwards, yes.      8 Q To get it out of traffic, I bet, right?      9 A Yes.      10 Q Okay. Were the other cruisers moved?      11 A Yes.      12 Q Did you or any of the officers who were there question      13 any of the cars that were stuck before you -- any of the      14 people in the cars that were stuck before you waved them      15 on?      16 A I personally did not. However, I know that -- I don't      17 recall what officers, they were talking to whom -- the      18 people that I would assume would have been drivers or      19 witnesses, but I didn't.      20 Q You didn't?      21 A No.      22 Q Do you know for a fact that other officers did?      23 A Yes.      24 Q Do you know which officers did?      25 A I don't know the -- I don't know who they were.</p>	<p style="text-align: right;">Page 200</p> <p>1 Q Okay.      2 A How about I put "Southwest corner witnesses." Then the      3 "Northeast corner witnesses."      4 Q That's fine. Anywhere else?      5 A That I recall, just those two locations.      6 Q Did you speak to any of those people?      7 A No.      8 Q Do you know if any of the other officers spoke to any of      9 those people?      10 A I do not.      11 Q Okay. How long after the car was moved with Bobby      12 Merrill in it until your attention was directed back to      13 that car?      14 A Two and-a-half minutes, three minutes.      15 Q All right. And then --      16 A Two and-a-half.      17 Q At that point, you're trying to get cars moving?      18 A Actually, the other officers kept the traffic moving. I      19 had to pick up some of the spent taser cartridges, get      20 them out of the roadway, wrap up the wire, which just      21 wrap it up and --      22 Q Okay. What did you do with those spent taser cartridges      23 and wire once you picked them up?      24 A Placed them on the trunk of the vehicle that Mr. Merrill      25 was in, on top of the trunk.</p>
<p style="text-align: right;">Page 199</p> <p>1 Q At the time -- at this point, after everything's happened      2 and Bobby Merrill's restrained and you moved the cars,      3 are you, Officer Severs, Officer Wietecha and Officer      4 Guest the only officers on the scene?      5 A At that point, once the vehicles are moved?      6 Q Yes. Once you've --      7 A To the best of my knowledge, we are the only officers on      8 the scene at that time.      9 Q Okay.      10 A That's what I recall, just the four of us being there.      11 Q In addition to the vehicles that were stopped that are      12 now starting to move, are there any other people who are      13 standing around?      14 A Yes.      15 Q Where are they standing?      16 A On the southwest corner of Gilmore and Washington.      17 Q Would you put a "W" on the southwest corner of that      18 drawing for "Witnesses."      19 A (Witness complying)      20 Q Are there witnesses standing anywhere else?      21 A Yes.      22 Q Where?      23 A On the northeast corner.      24 Q Would you put another "W" there?      25 A (Witness complying)</p>	<p style="text-align: right;">Page 201</p> <p>1 Q And what did you do after you placed them on the trunk?      2 A Mobile Medical Response pulled on scene.      3 Q Is this before or after you knew that there was an issue      4 with Bobby in the car?      5 A It was before they -- they pulled on and -- you want me      6 to --      7 Q Well, let me look for -- for clarity, let me ask, did you      8 realize that Bobby Merrill needed medical attention, like      9 imminent medical attention, before or after the medical      10 unit arrived on scene?      11 A After.      12 Q Okay. So the medical unit arrived on scene before you      13 realized there was an issue with Bobby Merrill?      14 A Yes.      15 Q A major issue with Bobby Merrill?      16 A Yes.      17 Q Okay. The taser cartridges, barbs and wires that you had      18 accumulated, put on the trunk of this car, did you take      19 steps to preserve them or put them in evidence?      20 A They were placed into evidence.      21 Q How did you do that?      22 A I don't recall if I placed them in evidence or not, but I      23 know that they're evidence items. I put them on the      24 trunk of the car.      25 You know, you have the wire, so you roll the</p>

(Pages 198 to 201)

<p style="text-align: right;">Page 202</p> <p>1        wire up. You have the spent cartridges. You pick up the    2        probes. Started to put the probes in. And that's about    3        as far as I recall getting with the spent cartridge    4        components.</p> <p>5        Q        Okay. And what stopped you working with the spent    6        cartridge components?</p> <p>7        A        The ambulance had pulled on the scene.</p> <p>8        Q        What happened when the ambulance pulled on the scene?</p> <p>9        A        When the ambulance pulled on the scene, I went to the    10      vehicle to tell Mr. Merrill that the ambulance people    11      were there, not the police. That's what I was going to    12      do, is just let him know that -- to cooperate with them.    13      I opened up the vehicle. I said -- I actually    14      called him Bobby. I said, "Bobby." I said, "Hey."    15      Nothing. "Bobby." Nothing. So I thought he was    16      playing. I've had people do it before to me where they    17      fake like they have an injury.</p> <p>18      So I opened up his eyelid, flicked it twice    19      with my finger. There was no response. Told the MMR    20      people -- I actually felt for a pulse. I could not feel    21      a pulse.</p> <p>22      Q        When you say you flicked his eye twice for a response,    23      how did you do that?</p> <p>24      A        I opened up his eye and went... (Demonstrating).</p> <p>25      Q        And no --</p>	<p style="text-align: right;">Page 204</p> <p>1        Q        And when you pulled him out of car, you said that you had    2        removed the handcuffs and the dog leash --</p> <p>3        A        Yes.</p> <p>4        Q        -- correct?</p> <p>5               And when you put him on the ground, did you    6        place him on his back?</p> <p>7        A        Yes.</p> <p>8        Q        And were the EMS medical responders there with you at    9        this time?</p> <p>10      A        Yes.</p> <p>11      Q        How many?</p> <p>12      A        Three.</p> <p>13      Q        Three? And when you got him on his back, you said that    14      you did chest compressions?</p> <p>15      A        Yes.</p> <p>16      Q        Did they instruct you to do chest compressions?</p> <p>17      A        Yeah. They were setting up like their EKG -- I don't    18      know what the machine is. They were playing around with    19      one of their machines.</p> <p>20      MR. REISING: IED?</p> <p>21      THE WITNESS: I'm sorry. It's not playing    22      around. I think it's called an IED or something to that    23      nature. But they had their machine that has like a tape    24      on it.</p> <p>25      There was another individual that was -- had an</p>
<p style="text-align: right;">Page 203</p> <p>1        A        Nothing.</p> <p>2        Q        No response?</p> <p>3        A        Nothing.</p> <p>4        Q        And you said after that you felt for a pulse?</p> <p>5        A        Could not feel a pulse.</p> <p>6        Q        Where did you check for a pulse?</p> <p>7        A        Right here --</p> <p>8        Q        Okay.</p> <p>9        A        -- the carotid artery.</p> <p>10      Q        What happened next?</p> <p>11      A        I couldn't feel a pulse. I told the MMR people, I said,    12      "Hey, get over here right now." They came over. I ran    13      to the other side of the car to take off the handcuffs    14      and the rope. Removed all that.</p> <p>15      Mr. Merrill was then pulled out of the    16      passenger side of the vehicle. And I assisted with CPR    17      at that point. Started with -- throughout the process I    18      did the bag and chest compressions.</p> <p>19      Q        So at this point, the car that Bobby Merrill is in is on    20      Gilmore Street?</p> <p>21      A        Yes.</p> <p>22      Q        You pulled him out through the passenger side, and I    23      imagine you put him on the little grassy area between the    24      sidewalk and the street, correct?</p> <p>25      A        That's correct.</p>	<p style="text-align: right;">Page 205</p> <p>1        oxygen tank. I remember him doing the oxygen tank with    2        the mask for the oxygen tank. There was a third one that    3        was attempting to, I guess, insert something into his    4        bone marrow in one of his legs.</p> <p>5        While that was going on, myself and Officer    6        Severs, we switched out, we rotated out doing the bag and    7        then the chest compressions.</p> <p>8        Q        (BY MR. BRUNETTI) Are you trained to administer CPR?</p> <p>9        A        Yes.</p> <p>10      Q        When you did chest compressions, where on his body were    11      you placing your hands?</p> <p>12      A        Two inches above his sternum.</p> <p>13      Q        Okay. When you did chest compressions, how quickly were    14      you applying the chest compressions?</p> <p>15      A        Approximately one every second.</p> <p>16      Q        One every second?</p> <p>17      A        (Nodding head affirmatively)</p> <p>18      Q        Okay. Did you do anything else?</p> <p>19      A        We switched out while -- when you fatigue, when, you --    20      know, when your muscles get fatigued, you --</p> <p>21      Q        Right. So at that point, you're operating the oxygen?</p> <p>22      A        Yes, the bag. Just the pump bag that you squeeze, and it    23      blows a breath of air.</p> <p>24      MR. REISING: The Ambu bag.</p> <p>25      THE WITNESS: Is that what it's called?</p>

(Pages 202 to 205)